

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: (ETHICS) For the 450 Season - Checklist and Guide to Reviewing Forms
Date: Thursday, February 22, 2018 10:10:00 PM
Attachments: [450 Checklist_.pdf](#)

Dear Ethics Colleagues,

Those confidential financial disclosure reports were due on February 15th, so by now you should have collected most if not all of your 450 forms (except for those filers who asked for and received an extension before 2/15). Now, what do you do?

It's time to review! Pick up one of those forms and dig in. By regulation, you have only 60 days from receipt of the forms to review them. So, don't procrastinate!

Are you new to confidential financial disclosure or don't really feel confident about what you're doing? Okay, the forms can be intimidating, but don't let them scare you. You are not alone! You have an important job to do, and we've got two great resources that will be your primary handy-dandy companions during the 450 review season.

First, check out the soup-to-nuts checklist we've created just for you this year. It's a new product from your friends in OGC/Ethics, and we hope it will help you out quite a bit. It walks you through the form and the review process, page-by-page. See attached.

Next, we urge you to bookmark and use the [Confidential Financial Disclosure Guide](#) (published by the Office of Government Ethics). It's comprehensive and gives you the information you need to know about reporting stocks, bonds, mutual funds, farms, outside employment . . . in fact, all of the most common entries on the report are described right here in the guide. Plus, it's got great information to help you administer your 450 program.

Confidential financial disclosure review is not just a paper exercise. Sure, you need to be sure that the reports are technically complete, but you are doing a conflicts review. You will have to do some research. Keep your internet browser open so you can look something up quickly should you need to do so.

Finally, don't forget that OGC/Ethics is here to help if you get stumped. After consulting these resources, if you're still not feeling sure, drop us an email or give us a call.

Happy reviewing!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: (ETHICS) It's Starting! The 450 Review Season
Date: Tuesday, February 13, 2018 11:17:00 AM
Attachments: [450 - Last Minute Reminder 2.docx](#)
[450 - Last Minute Reminder 1.docx](#)
[450 - Top Ten Mistakes.docx](#)

Dear Ethics Colleagues,

Welcome to the 450 Review Season! This email gives you lots of helpful information, including how to avoid the TOP 10 MISTAKES when collecting, reviewing, and certifying your forms.

BUT before we get to the TOP 10, you have to collect those forms first. We're providing you with two cheerful LAST-MINUTE reminders to send to your stragglers. The message works best when you send it only to those who have not yet filed (instead of to all of your filers). Copy and paste the text into a new email and customize it accordingly.

[LAST MINUTE REMINDER 1 \(click here\)](#)

[LAST MINUTE REMINDER 2 \(click here\)](#)

Also attached are the contents of this email as Word documents if you prefer to work from that. We'll be sending out more emails during the season to aid you in reviewing those forms! Have fun!

Now, Let's get on to sharing the **TOP 10 MISTAKES!**

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

HOW TO AVOID THE TOP 10 MISTAKES OF THE 450 SEASON

- 1) Put the date of receipt in the upper left box of the form.
- 2) Verify that the filer checked the "yes / no" boxes to the five reporting statements in the middle of the cover page.
- 3) Make sure that if the filer checked "yes" to one of the reporting statements, he reported the information in the respective part of the form.
- 4) Make sure that if the filer reported information in the form, that he also checked the appropriate reporting statement (sometimes, the filer will check "no" to the reporting statement but then report information – you need to make sure that reporting statements line up with what's reported on the form.)

- 5) Verify the manual signature of the filer (not digital) and that it includes the date the filer signed.
- 6) Ensure that the DEO signs the form as the certifying official and dates it.
- 7) Ensure completeness of information reported on Part I. You cannot assume that an item reported as “IRA” is complete if there is no note about underlying holdings. Information reported as IRA, brokerage, or retirement account may have reportable underlying holdings – follow up with the filer.
- 8) Ensure that mutual funds are listed using complete names. If filer reports “Vanguard mutual fund,” that is not a complete entry. Need to follow up to determine whether the filer meant to report a sector mutual fund (diversified mutual funds are not reportable).
- 9) Meet the deadline for reviewing and certifying forms within the 60-day review clock. You have 60 days from date of receipt to review and certify forms. The clock stops only if you need to follow up with the filer; but resumes once you have the information you need.
- 10) Follow the records retention schedule. Destroy those forms after six years of receipt. Make sure you delete emails if the filer emailed you his form.
- 11) BONUS: Collect forms by the February 15 deadline.
- 12) ONE MORE BONUS: Use the EXCELLENT resource guide, [Confidential Financial Disclosure Guide: OGE 450](#), published by the Office of Government Ethics.

LAST MINUTE REMINDER 1

TO: The employees who haven't filed the 450

FROM: DEO OR ADEO

SUBJECT: (ETHICS) Don't be late for a very important date

You know Valentine's day is tomorrow. But I'm writing about something decidedly unromantic. The day after love day is February 15th, which is when your 450 is due. It's funny that right after the national proclamation of love, you must turn to a subject like assets, income, outside activities. But anyway . . .

Be sure to turn in your OGE 450 on time. Because ... just like for Valentine's day ...

1) You don't want to be late

2) You don't want to show up empty-handed.

You can make me very happy by turning in your OGE 450 on or before February 15.

Come to my office with your OGE 450 in hand! (Room XXXX)

All the details you need to make this important date on time are in my initial email below.

Here are the KEY REMINDERS:

A) Manually sign your form - no digital signatures

B) New Form this year - all links to the form point to the January 2017 version

C) Check off the "yes/no" boxes to the five statements listed on the covered page

Thanks!

XXXX, your Deputy Ethics Official

Room XXXX

MC XXXX

LAST MINUTE REMINDER 2

TO: The employees who haven't filed the 450

FROM: DEO OR ADEO

SUBJECT: (ETHICS) You can still be my 450 Valentine!

So, Valentine's Day is almost here AND there is still time to show me some love by reuniting me with your financial disclosure form! If you turn in your 450 report to me soon, then the financial disclosure report will find its missing ethics official and all will be right in the ethics world.

Here's how to make that happen:

DEADLINE IS THURSDAY, FEBRUARY 15TH! TURN IN YOUR FORM NO LATER THAN THURSDAY!

1) Remember, in the ethics world, it's always better to ask permission than forgiveness. If you need an extension, please ask me and give me a date when you would like to turn in the form (you're special - I do not advertise extensions to anyone else!).

2) I sit in room XXX on the fourth floor. Or MC XXXX (for full address see below). Please turn the form into me, XXXX.

3) For the Cover Page, please check all the "yes/no" statements.

There are five of them.

4) For the Cover Page, please print out and sign the form. EPA cannot accept digital signatures for this form.

5) Please, please, please, only give me the pages on which you have information! If you answer "no" to all the statements on the cover page, then all I need is the cover page! Ethics Officials do like to save paper!

6) Looking for the form? Here's the link.

<https://oge.app.box.com/v/OGE450>

7) Looking for all that good information I sent you previously?

Check for an email from me on **Thursday**, January **XX**, 2018!

HAPPY VALENTINE'S DAY!

XXXX

Your Deputy Ethics Official

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Cc: [OGC Ethics](#)
Subject: (ETHICS) OGE 450 Filing Season – Everything you need to know as DEO
Date: Tuesday, January 09, 2018 12:52:00 PM
Attachments: [DEO Listserve - 450 Filing Season.pdf](#)

Hi there!

Oops, so we're a little late getting out the annual reminder for everything you need to know about the OGE 450 Filing Season. Sorry, but it's busy here in Ethics Land! Okay, let's go! By the way, since this is such a long email, we've attached it also as a pdf document in case you want to print and review it. We've also linked this email, so you can jump around it according to the following topics:

THE BASICS

[Designating your filers](#)

[Notifying your filers](#)

[Collecting the forms](#)

[Reviewing and certifying the forms](#)

[Securing and destroying the forms](#)

[A Word to the Wise – Why financial disclosure?](#)

WHAT'S NEW THIS YEAR

New form to use (dated January 2017)

New threshold amounts for reporting gifts

HOW THE OGE PROGRAM REVIEW AFFECTS YOU THIS YEAR

RESOURCES FOR COMPLETING REVIEW AND CERTIFICATION

Use of National Ethics Program Tracker in Lotus Notes

Soup-to-Nuts Checklist

Resources for reviewing what the filer reported

SAMPLE NOTIFICATION EMAIL to send your filers

THE BASICS

Designating your filers

KEY POINT: Review your list of 450 filers to ensure that it is correct

Who are the OGE-450 filers in your organization?

YOU as the DEO (not us in OGC) are responsible for determining who are the confidential filers in your organization. To help you, check out [EPA Ethics Advisory 2009-02](#), "Confidential Financial Disclosure at EPA," and this [OGC/Ethics flowchart](#) for determining who should file. This advisory reminds you that OGC expects that most supervisors, attorneys, inspectors and investigators will meet the requirements for filing, but that DEOs should make determinations on a case-by-case basis upon careful consideration of the following factors:

- (1) ... the duties and responsibilities of the employee's position require that employee to participate personally and substantially through decision or the exercise of significant judgment in taking a Government action regarding:
 - (i) Contracting or procurement;
 - (ii) Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
 - (iii) Regulating or auditing any non-federal entity; or
 - (iv) Other activities in which the final decision or action will have a direct and

substantial economic effect on the interests of a non-federal entity;
or

(2) ... the duties and responsibilities of the employee's position require the employee to file [the OGE-450] to avoid involvement in a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by that employee. Positions which might be subject to this reporting requirement ... include those with duties which involve investigating or prosecuting violations of criminal or civil law.

Please bear in mind that being excused from filing the OGE-450 does not mean that employees are somehow relieved of their ethical responsibilities. By focusing on people who are likely to meet both prongs of the regulatory test (i.e., employee makes decisions or takes actions that affect any non-federal entity AND exercises a great deal of discretion or decision-making authority), we hope that you can focus properly on conflicts reviews. You should consider encouraging all employees, not just filers, to take annual ethics training to ensure that they are all aware of their ethical responsibilities.

Contracting Office Representative (COR) filing status

We continue to expect that the Office of Acquisition Management will change the Contracting Management Manual to remove the requirement that all CORs must file the OGE-450. Until then, know that you as the DEO are responsible for making your own determination about whether CORs should file the financial disclosure form consistent with Ethics Advisory 2009-02.

Notifying your filers

KEY POINT: Distribute the OGE-450 to your filers now (remember to use the version dated Jan 2017)

When can you start telling people to file their forms?

Beginning now, you can notify confidential financial disclosure filers that it's time to start filing their reports. They need to complete their forms by February 15, 2018 (assuming you don't grant any extensions). If asked, you may grant extensions of time to file (up to a maximum of 90 days).

Can filers use the OGE-450A (short form) this year?

Yes. However, OGE/Ethics does not love the short form, so we don't use it. If you like, you as the DEO can decide not to use this form, too. We see greater value in the long form without that much more work for the filer. For example, if the filer has nothing to report, then all he needs to do is complete the cover page on the normal OGE 450. Alternatively, if nothing has changed, then the filer can use his last saved OGE 450 and simply update the cover page with his signature and date (but be sure it's on the new form dated January 2017). We don't see any advantage to using the 450-A because, as the reviewer, you have to be diligent, so you have always to have to look back to the last "long" form the filer completed to check to make sure there are no conflicts anyway.

Where to access the forms

Please visit the OGC/Ethics website under "Financial Disclosure Forms" located at <http://intranet.epa.gov/ogc/ethics/forms.htm> or go to the Office of Government Ethics [Form Library](#).

What you should remind filers

This year, we're providing a sample notification email for your use. However, if you want to

use your own reminder, then be sure to include:

- The federal ethics rules apply to employees in same-sex marriages in the same way they apply to all married employees. Provided that the marriage was performed in a state that recognizes same-sex marriages, then the employee must report on the assets and income of the spouse.
- OGE-450 filers must report sector mutual funds but are not required to report diversified mutual funds. They do not have to report student loans, revolving charge accounts, or loans from banks or other financial institutions on terms that are generally available to the public. They do not have to report mortgages on rental property.
- Here's a synopsis of the *gift reporting requirements* for filers:
 - Tangible gifts: Report gifts that exceed \$390 received in your personal capacity from a non-relative. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. Gifts from "relatives" (including spouses) are not reportable, and the applicable statute defines this term broadly to include persons related by blood or law or a fiancé(e). However, gifts beyond the reporting threshold from a boyfriend, girlfriend, significant other must be reported because those relationships are not included in the federal definition of "relative."
 - Gifts of travel: Report gifts of travel received in your personal capacity from any source that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. DO NOT report any gift of travel that was accepted by OGC under 31 USC 1353 (using the ethics travel form) or 5 USC 7342 (Foreign Gifts and Decorations Act). However, DO report gifts of travel that was approved under 5 USC 4111 (the Government Employees Training Act) even if you were on official travel.
 - Gifts of free attendance: Don't forget that you may have to report a gift given because of your official position that fell under the widely attended gathering (WAG) exception at 5 CFR 2635.204(g)(2). If you attended a reception or other gathering, and the cost of the free attendance exceeded \$390, then you have to report that gift on your financial disclosure report. The reason is that the WAG rule makes clear that the employee who receives such a gift must be on annual leave or an excused absence, so the gift is to the individual employee and not to the Agency. Any individual gift of \$156 or less from that same source may be excluded from the aggregation.

Collecting the forms

KEY POINT: Put the Date Received in the Upper Left Hand Corner

What do I need to do when I receive the forms?

Use our handy dandy checklist for complete soup-to-nuts lifecycle for each form (forthcoming). However, if the filer walks into your office to hand you her form, do these things immediately:

- Put the Date Received in the box of the upper left hand corner
- Make sure that the filer checked all the "yes/no" boxes for the five statements in the middle of the cover page
- If the filer checked "yes" to any statement, check to make sure there are reportable items for each respective part
- Make sure the filer signed her report and dated it. We still don't have allow digital signatures.

Doing these four things right when you receive the form with the filer still in your office will

solve most issues for follow up.

Who can receive the forms and log them into a recording system?

Remember, these are confidential forms with private information. Make sure you develop a system for recording receipt of the form that minimizes the number of hands it passes. Preferably, it should go to the Deputy Ethics Official or the Alternate Deputy Ethics Official directly.

When will we accept digital signatures, or better yet, e-filing?

The good news is that we have been making progress on digital signatures, but we aren't there yet. We're exploring e-filing systems, too. As we're migrating away from Lotus Notes, the new software tools we're looking at will hopefully make your job easier for the next filing cycle. But for now, we still can't accept digital signatures; however, a scanned pdf is fine.

Reviewing and certifying the forms

KEY POINTS: You have 60 days from date of receipt to review and certify.

You need to date the report when you certify it

Did the 60-day date change? Didn't it use to be around April 15?

Yes, generally, in the past, we have asked you to make sure you complete your review and certification of the forms 60 days from the filing deadline of February 15. The majority of the forms come in right around the filing deadline, so we still advise that you make sure to certify them by April 16 of this year (the 15th is a Sunday).

Is there an exception to the 60-day review deadline?

Yes. If you review a form and need more information from the filer, then the clock stops when you contact the filer and resumes when you have received the information requested from the filer.

Who can certify the report?

Only the Deputy Ethics Official can certify the report. And remember to date it! The Office of Government Ethics recently faulted EPA because reports either didn't have the certifying signature or were missing the date on which the DEO certified it. If another employee (e.g., the ADEO) reviews it, there is another place on the form, "other reviewer," for that signature.

Securing and destroying the forms

KEY POINTS: Keep the forms secured

Destroy forms older than six years

What are the requirements for keeping the form secured?

Don't leave the forms lying around! They have private information on them. Keep them secured in either a locked filing cabinet or in a locked room.

How long do I keep the forms?

Don't keep the forms for longer than six years. That's the records retention schedule. If there is an ongoing investigation, then keep it; but otherwise, as you file your certified reports remember to pull out any forms filed in 2012 or earlier. They need to be shredded.

A Word to the Wise – Why financial disclosure?

Financial disclosure is the cornerstone of federal ethics. You should not regard this as a mere paperwork exercise. Rather, this is your opportunity (and your obligation) to ensure that your employees are in fact complying with their conflict of interest obligations. Take time to do an effective and thorough conflicts review. If you need help, then please let us know.

WHAT'S NEW THIS YEAR

New form to use (dated January 2017)

Because of the changes to the gift reporting thresholds, that changes the instructions on the form.

Therefore, OGE has issued a new form to account for these changes. OGC/Ethics has updated the [links](#) on our intranet site. And here's the link to the form [here](#). When you distribute the form, be sure you are directing your filers to the January 2017 version (look in the upper left hand corner to see which form you have). So, if you're updating an old email to distribute to your filers, you'll also need to update the links to the forms and/or attachments, if you include them.

New threshold amounts for reporting gifts

OGE has raised the monetary threshold for the reporting of gifts, effective for reporting on CY 2017.

Every three years, this amount changes. For more information on this read the [OGE Legal Advisory LA-17-07](#).

HOW THE OGE PROGRAM REVIEW AFFECTS YOU THIS YEAR

Remember that the Office of Government Ethics started a review of EPA's ethics program in 2016 and issued its report in March 2017. It found several areas for improvement with EPA's 450 program administration. After this year's filing cycle, OGE will be back to spot check 450 forms to determine whether there has been improvement. If you were one of the [offices](#) OGE reviewed in 2016, be prepared for another mini review later this spring. However, OGE could ask any office to review its 450 forms, so please be prepared.

To assist you in implementing improvements and after seeking feedback from the ethics community in November 2017, OGC/Ethics will be issuing a soup-to-nuts checklist to facilitate your collection and review of the 450s (in a forthcoming email). Also, we're putting together an exhaustive go-to resource list to have at your fingertips to answer any question you may have about items you review on the forms. In the meantime, here's a quick list of the areas we need to improve:

- Collect reports timely. New entrant reports are due within 30 days of entering the position, and annual reports are due February 15.
- Put the DATE OF RECEIPT in the box of the upper left hand corner of the form.
- Review and certify forms within the 60-day review clock (that's why you need to indicate the date of receipt). The exception is that the clock stops when you go back to the filer to obtain clarification, but resumes when you have the missing information.
- Make sure the filer MANUALLY signs the form and DATES it! Do not accept digital signatures.
- Only the DEO can certify the form and he/she must DATE it when he/she certifies it!
- Follow the records retention schedule – shred forms older than six years if no longer needed (i.e., if there is an investigation, keep it).

RESOURCES FOR COMPLETING REVIEW AND CERTIFICATION

Use of National Ethics Program Tracker (NEPT) in Lotus Notes

As long as your office renewed your Lotus Notes license, then you can use NEPT to track the collection and certification of your 450s for one last year! OGC/Ethics will turn on the reminders to run weekly, every Thursday, beginning January 18.

Soup-to-Nuts Checklist

OGC/Ethics is creating a checklist for your use that will cover the lifecycle of the 450 form, from the time you receive it to the time you destroy it. Use of this checklist will help improve program administration and eliminate the errors that OGE found and address its recommendations. OGC/Ethics expects to issue this checklist the week of January 15.

Resources for reviewing what the filer reported

Also, based on quick feedback from the ethics community in the November monthly meetings, OGC/Ethics found that a quick and ready list of resources to help you review the forms.

While resources are also available on our [intranet site](#), we will also curate this list and format it for email use.

Lots of stuff for sure! Thanks for keeping ethics in the forefront of all we do!

justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

SAMPLE NOTIFICATION EMAIL to send your filers

This is a chatty email, but covers all requirements. You're welcome to use it or crib from it to make it your own! MAKE SURE YOU INSERT YOUR NAME AS APPROPRIATE (SEE HIGHLIGHTED AREAS). COPY AND PASTE INTO A NEW EMAIL (DO NOT JUST FORWARD JUSTINA'S EMAIL).

TO: Your 450 filers

FROM: You, the DEO

SUBJECT: (ETHICS) Baby it's cold outside! And that means . . .

Winter has finally arrived and now that we have seasonal weather, there is also the seasonal 450 filing!

Yes, it's that time of the year again. Get a nice cup of tea, hot cocoa, or coffee. Pull out your financial documents. It is confidential financial disclosure season once again. Keep reading for directions – I will try to make this as painless as possible.

Important Note: Don't forget that if you're in a same-sex marriage, you have to disclose the reportable assets and income of your spouse.

Where is the form?

OGE Form 450 is a click away. If you prefer to access it from the Ethics Intranet Page, all the information is here and there are helpful resources on this page, too: <http://intranet.epa.gov/ogc/ethics/forms.htm#filer>

New Form This Year

If you save an electronic copy of the form and simply edit it for each year's filing, you'll have to start over this year (sorry!). The Office of Government Ethics issued a new form in 2017, so be sure you're using the January 2017 form. If you use the link above, that will take you to the 2017 form. You can also check to verify you are using the correct form by reviewing the upper left hand corner on each page of the form.

This form is 7 pages long. Is there any way to save paper?

Well, we ethics officials have paper-saving techniques! While **you cannot electronically submit** your form (we'll get to that day sometime soon), you can print out only the pages on which you are reporting information. AND, the best part, if you have no reportable information, then you need only to print out the cover page. How exciting is that?!

What's the deadline?

I need your form no later than Thursday, February 15.

Where do I submit the form?

Be sure you submit your form to **INSERT APPROPRIATE NAME. My office is Room XXX or you can route forms to me at MC XXXX.**

Can you go over those gift-reporting thresholds, again?

YES! The reporting threshold for reporting gifts and reimbursements is \$390. I know, not a lot, but who knows?! Maybe that generous iPad gift from your best friend, valued at \$349, doesn't make the cut! (no endorsement intended!)

Remember, you HAVE TO report certain gifts and travel reimbursements:

Tangible gifts: you have to report gifts you, your spouse, or dependent child(ren) received from a non-relative that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. Gifts from your significant other must be reported, while gifts from your spouse or mother do not.

Gifts of travel: you have to report gifts received in your personal capacity from any source that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. You do not have to report any gift of travel that was accepted by OGC under 31 USC 1353 (using the ethics travel form), but you do have to report any gift of travel that was approved under 5 USC 4111 (the Government Employees Training Act).

Gifts of free attendance: you may have to report any gift given to you pursuant to the widely attended gathering exception at 5 CFR 2635.204(g) (2). For example, if you attended a reception or other gathering, and the cost of the free attendance exceeded \$390, then you have to report that gift on your financial disclosure report. The reason is that the WAG rule makes clear that the employee who receives such a gift must be on annual leave or an excused absence, so the gift is to the individual employee and not to the Agency. Any individual gift of \$156 or less from that same source may be excluded from the aggregation.

Can you go through those quick tips from last year?

* The reporting period for you is January 1, 2017 to December 31, 2017 (CY2017).

* You DO NOT have to report any money market mutual funds or money market accounts or DIVERSIFIED mutual funds.

* You DO NOT have to report your TSP or your EPA salary.

* **DON'T FORGET to answer those five questions on the cover page – answering those questions determines which parts of the form you need to complete. If you have no reportable information, then the cover page is all that I need.**

*READ THE INSTRUCTIONS - they are surprisingly helpful!

*** SIGN THE FORM – NO DIGITAL SIGNATURES ***

Need more help completing your 450?

Call or email **XXXX** or check out our very helpful intranet page. We have a quick

tutorial on what needs to be reported **and there are FAQs:**

<http://intranet.epa.gov/ogc/ethics/forms.htm#filer>

Why am I filling out this form?

The 450 system facilitates the review of possible conflicts of interest. Our mission is to avoid and prevent conflicts of interest from happening and preserve the integrity of our mission, programs and policies. The 450 reports are the first step to providing tailored counseling to you, if necessary, about how your private interests may conflict with your public duties and help you to prevent ethics issues. I've designated you to file because your duties and responsibilities may have a direct and substantial effect on the financial interests of non-federal entities, or there may be a potential for a conflict of interest, appearance of favoritism or loss of impartiality.

Cheers and here's to the arrival of winter!

Your Deputy Ethics Official

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Cc: [OGC Ethics](#)
Subject: (ETHICS) Your Winter DEO Responsibilities and Updates
Date: Tuesday, January 09, 2018 12:41:00 PM

Dear Ethics Colleagues,

As you know, winter is the busiest time in the ethics calendar, and we in OGC/Ethics are preparing detailed emails of all "housekeeping" chores that you have to do in the new calendar year. To that end, this is the first of a series of emails over the next week concerning the winter housekeeping duties of the DEO. Here's what to expect over the next week:

THIS WEEK

THIS EMAIL: General Summary of Your Responsibilities

(Later) TODAY: Everything you need to know about the 450 filing season

WEDNESDAY: Everything you need to know about the Ethics Travel Form

FRIDAY: Everything you need to know about the Annual Questionnaire

NEXT WEEK

TUESDAY: Everything you need to know for reviewing 450 forms

WEDNESDAY: Everything you need to know about migrating ethics apps from Lotus Notes

THURSDAY: Summary of these emails

ETHICS TRAINING

Back on November 13, 2017, I sent out an email to the EPA ethics community with instructions and links for the annual ethics training. As Deputy Ethics Officials, you should have notified your employees to take their annual training. Many of you heeded that call because over 11,400 people have completed their training. Thanks! So what do you need to do now? Go after those stragglers. Remember, in the annual ethics questionnaire, you certify to OGC/Ethics that everyone required to take the 2017 ethics training took it. As usual, we will leave the training tracker up and running through the end of January so that you can ensure your stragglers finish their training. But completion of this training will count only for their 2017 obligation. It will not count at all toward their training requirement for 2018! If people are having trouble getting certificates of completion, advise them to send a note to ethics@epa.gov and we'll take care of it.

ETHICS QUESTIONNAIRE

This is the annual report by all Deputy Ethics Officials about how you managed your ethics program responsibilities in 2017. It's a survey that is completed and filed electronically. That questionnaire will be due on Friday, January 26, 2018. We will release it this Friday (Jan. 12). I know it's only two weeks, but that should be enough time - there aren't many changes to it this year; we're just finishing up the under the hood testing.

FINANCIAL DISCLOSURE REPORTS

Starting now (if you haven't already) you can review your list of confidential financial disclosure report filers to ensure that it is correct, and distribute the form to your filers. Be sure to use the form dated January 2017. You'll get more instructions about collecting 450s by email later today.

LOTUS NOTES ISSUES

Our ethics databases are still up and running in Lotus Notes. If your office renewed your licenses for employees, then those employees still have access to Lotus Notes. That way, you can still track the training, use NEPT for the 450 filing season, and use

the ethics travel form. Just so you know, we will be migrating soon to a non-Lotus Notes ethics travel form, so later this week I will send out instructions for what to do if one of your travelers can't use Lotus Notes. Our new web-based system will go live soon!

Stay tuned for lots of ethics emails over the next week! If you have any questions, let us know!

Cheers,

Justina

ethics@epa.gov

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

TO: The employees who haven't filed the 450
FROM: DEO OR ADEO
SUBJECT: (ETHICS) Don't be late for a very important date

You know Valentine's day is tomorrow. But I'm writing about something decidedly unromantic. The day after love day, February 15th. It's funny that right after the national proclamation of love, you must turn to a subject like assets, income, outside activities. But anyway . . .

So, be sure to turn in your OGE 450 on time. Because just like for Valentine's day,

- 1) You don't want to be late**
- 2) You don't want to show up empty-handed.**

You can make me very happy by turning in your OGE 450 on or before February 15. Come to my office with your OGE 450 in hand! (Room XXXX)

All the details you need to make this important date on time are in my initial email below.

Here are the KEY REMINDERS:

- A) Manually sign your form - no digital signatures**
- B) New Form this year - all links to the form point to the January 2017 version**
- C) Check off the "yes/no" boxes to the five statements listed on the covered page**

Thanks!

XXXX, your Deputy Ethics Official

Room XXXX

MC XXXX

TO: The employees who haven't filed the 450
FROM: DEO OR ADEO
SUBJECT: (ETHICS) You can still be my 450 Valentine!

So, Valentine's Day is almost here, AND there is still to show me some love, by reuniting me with your financial disclosure form! If you turn in your 450 report to me soon, then the financial disclosure report will find its missing ethics official and all will be right in the ethics world.

Here's how to make that happen:

DEADLINE IS THURSDAY, FEBRUARY 15TH! TURN IN YOUR FORM NO LATER THAN THURSDAY!

- 1) Remember, in the ethics world, it's always better to ask permission than forgiveness. If you need an extension, please ask me and give me a date when you would like to turn in the form (you're special - I do not advertise extensions to anyone else!).
- 2) I sit in room **XXX on the fourth floor**. Or MC **XXXX** (for full address see below). Please turn the form into me, **XXXX**.
- 3) For the Cover Page, please check all the "yes/no" statements. There are five of them.
- 4) For the Cover Page, please print out and sign the form. EPA cannot accept digital signatures for this form.
- 5) Please, please, please, only give me the pages on which you have information! If you answer "no" to all the statements on the cover page, then all I need is the cover page! Ethics Officials do like to save paper!

6) Looking for the form? Here's the link.

<https://oge.app.box.com/v/OGE450>

7) Looking for all that good information I sent you previously? Check for an email from me on Thursday, January XX, 2018!

HAPPY VALENTINE'S DAY!

XXXX

Your Deputy Ethics Official

HOW TO AVOID THE TOP 10 MISTAKES OF THE 450 SEASON

- 1) Put the **date of receipt** in the upper left box of the form.
- 2) Verify that the filer checked the “yes / no” boxes to the **five reporting statements** in the middle of the cover page.
- 3) Make sure that if the filer checked “yes” to one of the **reporting statements**, he reported the information in the respective part of the form.
- 4) Make sure that if the filer reported information in the form, that he also checked the **appropriate reporting statement** (sometimes, the filer will check “no” to the reporting statement but then report information – you need to make sure that reporting statements line up with what’s reported on the form.)
- 5) Verify the manual **signature of the filer** (not digital) and that it includes **the date the filer signed**.
- 6) Ensure that the **DEO signs** the form as the **certifying official and dates it**.
- 7) Ensure completeness of information reported on Part I. You cannot assume that an item reported as “IRA” is complete if there is no note about **underlying assets**. Information reported as IRA, brokerage, or retirement account may have reportable underlying holdings – follow up with the filer.
- 8) Ensure that **mutual funds** are listed using complete names. If filer reports “Vanguard mutual fund,” that is not a complete entry. Need to follow up to determine whether the filer meant to report a sector mutual fund (diversified mutual funds are not reportable).
- 9) Meet the deadline for reviewing and certifying forms within the 60-day review clock. You have **60 days** from **date of receipt** to review and certify forms. The clock stops only if you need to follow up with the filer; but resumes once you have the information you need.
- 10) Follow the **records retention schedule**. Destroy those forms after six years of receipt. Make sure you delete emails if the filer emailed you his form.
- 11) BONUS: **Collect** forms by the **February 15** deadline.
- 12) ONE MORE BONUS: Use the **EXCELLENT resource** guide, [Confidential Financial Disclosure Guide: OGE 450](#), published by the Office of Government Ethics.

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

| Cover Page | |
|------------------------------|---|
| UPON RECEIPT | |
| <input type="checkbox"/> | Open the 450 immediately when you receive it – don't let it sit around! |
| <input type="checkbox"/> | Put date of receipt in the upper left hand box. <i>Note: Sending an email to the filer acknowledging receipt is a best practice. Also, it reduces questions from the filers asking if you received it!</i> |
| <input type="checkbox"/> | Ensure filer completed all sections of the biographical data fields. |
| <input type="checkbox"/> | Ensure filer checked "yes" or "no" to the five reporting statements in the middle of the page. Follow up with filer if incomplete. <i>Note: New entrant filers complete only the first four.</i> |
| <input type="checkbox"/> | Review the remaining pages of the form for discrepancies with the reporting statements on the cover page. Did the filer check "yes" on the cover page, but then neglected to report information for the respective part? Did the filer report information on the form, but checked "no" to the respective reporting statement on the cover page? If there is a discrepancy between information reported on the form and the reporting statements, follow up with the filer. |
| <input type="checkbox"/> | Ensure filer manually signed the form and dated it. Do not accept digital signatures. |
| UPON REVIEW & CERTIFICATION. | |
| <input type="checkbox"/> | Ensure the intermediary reviewer (if there is one) signed and dated form when s/he completed review. |
| <input type="checkbox"/> | Ensure Deputy Ethics Official signed and dated form when s/he certified it in the field, "Signature and Title of Agency's Final Reviewing Official ." <i>Notes: Only the Deputy Ethics Official can certify the reports. This is a non-delegable duty.</i> <i>When the DEO is certifying that the filer is in compliance with applicable laws and regulations, the DEO is acknowledging two things: 1) The report is complete and s/he has enough information (e.g., through the technical review) to conclude 2) that no interest or position disclosed violates or appears to violate the ethics laws and regulations (e.g., the conflicts analysis), unless otherwise noted. Collectively, the "ethics laws and regulations" refer to the criminal conflict of interest statutes, the Standards of Ethical Conduct, and EPA's supplemental ethics regulation.</i> <i>Sending an email to the filer when the DEO certifies the form is a best practice.</i> |
| <input type="checkbox"/> | Annotate the report here on the cover page in the field, "Comments of reviewing officials," or throughout the report as appropriate. |
| <input type="checkbox"/> | Attach any guidance or counseling to the filer about her/his ethics obligations or substantive exchanges you have with the filer about the report. |

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

Part I: Assets and Income

TECHNICAL REVIEW

☐

Understand every entry reported in this part. Use the internet to research unfamiliar entries.

- Use a finance search engine (e.g., Yahoo or Google Finance) to look up stocks, mutual funds, bonds.
- Search for a company's website if the filer reports outside employment and you don't know what the company does.

☐

Determine whether the information reported is sufficient enough for a complete conflicts analysis. For detailed guidance on how to report common entries, such as stocks, employment, brokerage accounts and farms, use the [Confidential Financial Disclosure Guide](#), published by the Office of Government Ethics.

☐

Identify major discrepancies or significant inconsistencies to ensure a complete report:

- Use the prior report to compare items.
For example, if a prior report showed ownership in ABC Energy stock and the reviewer's annotation to that entry shows it was valued at \$65,000 and that stock is no longer reported, follow up with the filer since that was of significant value.
- Use your knowledge independent of what's on the form.
For example, if you know the spouse of the filer works in the private sector but that information is not reported, check with the filer to ensure that reporting is correct.

☐

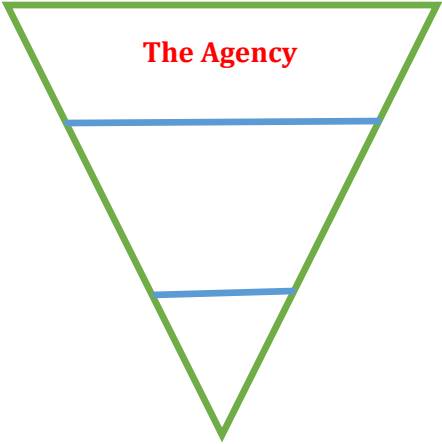
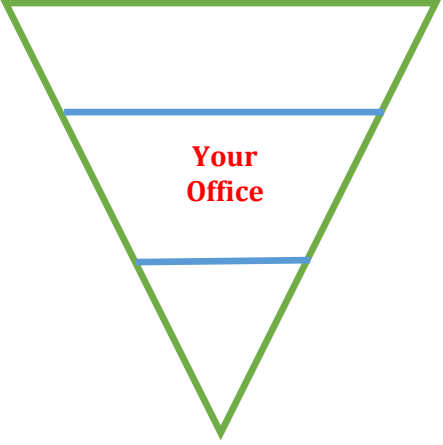
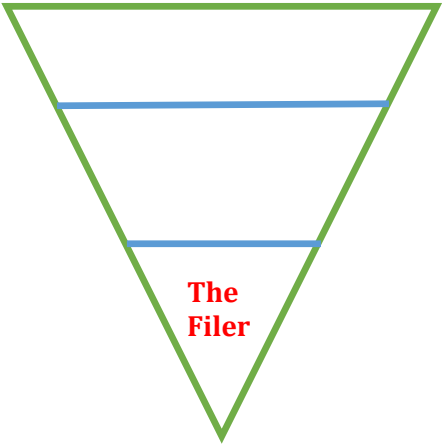
Follow up with the filer when an entry does not provide enough information to identify the interest. *For example, the filer reports "Fidelity Mutual Fund" or "Stock" or "Brokerage Account" (and then doesn't disclose the account's underlying holdings).* For detailed guidance, use the [Confidential Financial Disclosure Guide](#).

Notes: You do not need to perform a line-by-line comparison with the prior report or reconcile all the differences that may exist on the report or between reports. Also, you may generally accept disclosures at "face value." **You should seek additional information when:**

- There is not enough information to identify the interest.
- The entry (or absence of an entry) is inconsistent with another entry within the report. *For example, the filer reports outside employment on Part III, but then doesn't report the income on Part I. Without more information, it's not clear if the position is compensated.*
- The report omits an entry that you have independent knowledge about. *For example, the filer does not report non-federal income when you know that the filer recently worked in the private sector.*
- Inconsistencies between reports that raise reasonable concerns about whether the filer understands reporting requirements.
- You need more information to perform the conflicts analysis. *For example, the filer owns stock, but you need to know the value to determine whether the de minimis thresholds apply.*

Requesting additional information involves the exercise of judgment. You should use more or less scrutiny depending on the familiarity of the filer with the process, the technical accuracy of any previous reports, and the potential for conflicts of interest. The steps outlined above will help make sure the reports are technically accurate and give you the information you need to conduct a conflicts review.

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

| Part I: Assets and Income | |
|--|--|
| CONFLICTS REVIEW | |
| <input type="checkbox"/> | <p>Perform the conflicts analysis for each entry. Based on the reported information, assess whether the filer could engage in (or may have engaged in) behavior that violates or appears to violate applicable laws and regulations.</p> |
|  <p style="color: red; font-weight: bold; margin-top: 10px;">The Agency</p> | <p>Think about whether EPA's policies, programs or operations affect the reported entry (even if not your own office):</p> <ul style="list-style-type: none"> - Is the non-federal entity seeking official action from EPA? - Does the non-federal entity do business or seek to do business with the EPA? - Does the non-federal entity conduct activities that EPA regulates? - Does the non-federal entity have interests that may be substantially affected by the performance or non-performance of the filer's official duties? - Is the non-federal entity a membership organization in which the majority of the members are described in the preceding questions? |
|  <p style="color: red; font-weight: bold; margin-top: 10px;">Your Office</p> | <p>Think about whether your office affects the reported entry. What is the nexus between the work of your office and the non-federal entity? The closer the nexus, the more likely there may be an issue:</p> <ul style="list-style-type: none"> - Consider matters your office works on and whether there is any connection to the work of this entity. Does your office work on permits, investigations, litigation, grants, licenses, contracts, applications, enforcement cases, or other similar types of matters where there is an identified non-federal entity (i.e., particular matters involving specific parties)? - Also consider whether your office is involved in scientific programs, media programs, or other types of policies, procedures, guidance documents, regulations, etc., that would affect this particular industry or sector (i.e., particular matters of general applicability). |
|  <p style="color: red; font-weight: bold; margin-top: 10px;">The Filer</p> | <p>Think about whether the work on which your filer participates affects the reported entry. What is the nexus between the filer's work and the reported entry as well as its respective class, industry or sector? The closer the nexus, the more likely there is an issue:</p> <ul style="list-style-type: none"> - Will the work the filer does affect the sector? Don't concentrate on whether the filer's personal contributions will be determinative but rather, overall, how the outcome of the work itself will affect the entry or sector. - Does the filer advise on or consult with his or her colleagues' projects and work? Does their work affect this sector or the non-federal entity? - Does the filer actively supervise or assign work to subordinates? Do those assignments affect the sector or the non-federal entity? |

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

| Part I: Assets and Income | |
|---------------------------|---|
| REMEDIES | |
| <input type="checkbox"/> | <p>Investigate reported entries that raise issues under the conflicts analysis. Resolve any potential or actual substantive issues.</p> <p><i>Note: Be cautious of holding companies that own several and distinct lines of businesses (e.g., Berkshire Hathaway), multi-industry conglomerates like General Electric, or internet/tech companies such as Amazon or Alphabet (the parent company of Google). They own and operate many more businesses than what we know them for and those businesses may pose conflicts.</i></p> |
| <input type="checkbox"/> | <p>Determine appropriate response:</p> <ul style="list-style-type: none"> - No response is necessary if there is no remote possibility or potential issue to violate applicable laws or regulations (e.g., no reportable items or the items reported don't create an issue). - Provide guidance on the application of ethics statutes and regulations to the filer's disclosed interests and official duties, as appropriate. Use your discretion, knowledge of the filer, and needs of the office to: <ul style="list-style-type: none"> - Discuss ethics rules with the filer in-person or over the phone; - Issue a cautionary email to advise the filer on her/his ethics obligations; and/or - Determine whether <i>de minimis</i> thresholds are applicable and whether the interest is low enough in value to protect the filer from any inadvertent violation. <p><i>Note: This is the purpose of reviewing the 450 – to provide prospective guidance and catch ethics concerns before they become an issue!</i></p> |
| <input type="checkbox"/> | <p>Identify specific actions that the filer must or should take to resolve any conflicts concerns, and document such actions, as appropriate:</p> <ul style="list-style-type: none"> - Quit outside employment - Recuse from certain work taking place in his or her office - Reassign the filer to other work - Issue an impartiality determination under 5 C.F.R. Part 2635.502(c) <p>After consultation with OGC/Ethics, consider the possibility of:</p> <ul style="list-style-type: none"> - A waiver under 18 U.S.C. §208(b)(1) (only OGC/Ethics can issue the waiver) - Divestiture of an interest - Partial sale of an interest so that it's well below <i>de minimis</i> thresholds <p><i>Note: Consult with OGC/Ethics to confirm the most appropriate action beforehand.</i></p> |
| <input type="checkbox"/> | <p>Refer apparent violations by contacting OGC/Ethics to determine next steps, which may include referral to the Inspector General.</p> |

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

Part II: Liabilities

TECHNICAL REVIEW



Understand what's reported.

Note: It's rare to have anything reportable in this section because the filer is not required to report the most common type of liabilities such as mortgages, student loans, or credit cards when these loans are made available to the public on the same terms. Therefore, if there is anything reported make sure it's not over-reporting or understand what the filer is reporting.

CONFLICTS ANALYSIS



Perform the conflicts analysis for each entry. Based on the reported information, assess whether the filer could engage in (or may have engaged in) behavior that violates or appears to violate applicable laws and regulations.

Note: The conflicts review will revolve mainly around whether an employee is receiving favorable terms on a loan because of his official government position. Also, think about whether the nexus between the individual or the organization to whom the filer owes money and whether those interests might be affected by the work of the filer.

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

| Part III: Outside Positions | |
|------------------------------------|---|
| TECHNICAL REVIEW | |
| <input type="checkbox"/> | Ensure your office has an approved outside activity request on file for every position that requires a request (see EPA's supplemental regulations for outside activities that require ethics approval prior to engaging in the activity). Not every reported position requires prior approval. |
| <input type="checkbox"/> | For approved outside activities, ensure that the request is still valid. Approved requests expire after five years and the employee needs to go through the approval process again if the activity lasts longer than five years or if there is a change to her/his official duties or to the activity itself. |
| <input type="checkbox"/> | Understand what's reported. Research the outside organizations if you don't know what they do. <i>Note: This section discloses positions held outside of government duty. Cross reference this part with Part I: Assets and Income – any compensated position appears there, too.</i> |
| CONFLICTS ANALYSIS | |
| <input type="checkbox"/> | <p>Perform the conflicts analysis for each entry. Based on the reported information, assess whether the filer could engage in (or may have engaged in) behavior that violates or appears to violate applicable laws and regulations.</p> <p><i>Note: Outside activities raise the whole panoply of ethics laws and regulations. Here are a few key points to start your analysis. Refer to the chart in Appendix 1 for a deep dive (at the end of this checklist) for the whole host of ethics issues that can arise.</i></p> <ul style="list-style-type: none"> - <i>Understand whether the position / organization interacts with the federal government. Representation issues may trigger the criminal conflict of interest statutes.</i> - <i>Understand whether the work of the filer affects the outside organization with whom s/he holds a position.</i> - <i>Understand whether the position would raise impartiality issues with the filer's official duties.</i> - <i>Understand the potential for misuse of position.</i> - <i>Understand whether there is any fundraising involved.</i> |

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

Part IV: Agreements or Arrangements

TECHNICAL REVIEW



Understand what's reported.

Note: This section discloses continuing ties to a former employer (e.g., a retirement or deferred compensation plan, leave of absence) or future ties (i.e., prospective employment). This part cross-references typically with Part I: Assets and Income. Use this section to help you understand the nature of what's reported on Part I.

CONFLICTS ANALYSIS



Perform the conflicts analysis for each entry. Based on the reported information, assess whether the filer could engage in (or may have engaged in) behavior that violates or appears to violate applicable laws and regulations.

Note: The conflicts review revolves around whether the filer has some sort of agreement or arrangement for future employment (or payment from a previous employer) with an organization that might be affected by the work that the filer does. If so, this might be an issue.

450 Checklist for Deputy Ethics Officials: REVIEWING & CERTIFYING YOUR FORMS

Part V: Gifts and Travel Reimbursements

TECHNICAL REVIEW



Understand what's reported.

Notes: The disclosure requirements are broader than what's acceptable under the gift rules in the Standards of Conduct. The reporting of gifts and a gift analysis are two distinct inquiries.

Gifts of travel accepted by the EPA (i.e., through the use of the ethics travel form) are NOT reported here, nor are gifts accepted by the spouse and dependent child totally independent of the filer's official position.

CONFLICTS ANALYSIS



Perform the conflicts analysis for each entry. Based on the reported information, assess whether the filer could engage in (or may have engaged in) behavior that violates or appears to violate applicable laws and regulations.

Note: The conflicts review will revolve mainly around gift issues and whether an employee has received an improper gift.

450 Checklist for Deputy Ethics Officials: SECURING & DESTROYING YOUR FORMS

| Life Cycle of the Form | |
|--------------------------|---|
| SECURING YOUR FORMS | |
| <input type="checkbox"/> | Ensure that your routing process for receipt of forms is secure and involves the least amount of people as possible. |
| <input type="checkbox"/> | Do not leave forms out on your desk or in plain sight. |
| <input type="checkbox"/> | Store forms in a private locked office or in a locking filing cabinet. |
| <input type="checkbox"/> | Share information on a need to know basis only. Ask yourself whether it's really necessary for an employee outside of ethics management to know what's reported. The information is protected under the Privacy Act. |
| DESTROYING YOUR FORMS | |
| <input type="checkbox"/> | Do not destroy forms needed for ongoing investigations. |
| <input type="checkbox"/> | Otherwise, destroy forms after six years of receipt. Retain a form longer than six years if it is needed to understand the OGE Form 450A. But once you no longer need it to understand a 450A, destroy it. See page 17 of the Confidential Financial Disclosure Guide . |

Appendix 1:

REVIEWING OUTSIDE POSITIONS FOR CONFLICTS

Table of Applicable Authorities for Outside Activities Analyses

| Applicable Authority | Summary of Authority | Key Questions |
|--|--|---|
| <p>18 USC 203</p> <p>Bar on Receipt of Compensation for Representational Services</p> <p>Note-More limited restrictions apply to SGEs.</p> | <p>An employee may not receive compensation for the representation of anyone before any agency or court of the US (and certain other entities) on a matter in which the United States is a party or has a direct and substantial interest. This prohibition applies whether the employee renders the representation himself or shares in compensation from someone else's representation.</p> | <p>Will the activity be compensated?</p> <p>Will the compensation be in consideration for a representation before an agency or court of the US (or other specified entity)?</p> <p>Will the representation be in connection with a matter in which the US is a party or has a direct and substantial interest?</p> <p>Do any of the exceptions at (d)-(f) apply?</p> |
| <p>18 USC 205</p> <p>Bar on Representations Before the Government</p> <p>Note-More limited restrictions apply to SGEs.</p> | <p>An employee may not act as an agent or attorney for prosecuting any claim against the US nor may he receive any gratuity or share in consideration for his assistance in prosecuting such claim.</p> <p>An employee may not act as an agent or attorney or otherwise represent anyone before an agency or court of the US (and certain other entities), with or without compensation, on a matter in which the United States is a party or has a direct and substantial interest.</p> | <p>Will the activity involve a claim against the US?</p> <p>Will the activity be compensated?</p> <p>Will the activity involve the employee making a representation before an employee of a federal agency or court (or other specified entity)?</p> <p>Will the representational activity be on behalf of a third party?</p> <p>Will the representational activity be in connection with a matter in which the US is a party or in which it has a direct and substantial interest?</p> <p>Do any of the exceptions at (d)-(i) apply?</p> |

Appendix 1:

REVIEWING OUTSIDE POSITIONS FOR CONFLICTS

| | | |
|--|---|---|
| <p>18 USC 208</p> <p>Bar on Acting in Matters Affecting a Financial Interest</p> | <p>An employee is prohibited from participating personally and substantially in a particular government matter if that matter will have a direct and predictable effect on the employee's own financial interest or on the interests of others that are imputed to him under the statute.</p> | <p>Will the federal employee be serving the outside entity as an: officer director trustee general partner, or employee?</p> <p>Has the employee already negotiated for or does he have an arrangement for employment with the outside entity?</p> <p>Does the employee work on matters or is he likely to work on matters that could affect the interests of the outside entity?</p> <p>Does the employee work on matters that could affect his own financial interest in the outside activity (e.g. a consulting or other fee for service)?</p> <p>Does any exemption under 5 CFR part 2640 apply?</p> |
| <p>18 USC 209</p> <p>Bar on Receiving Salary or a Supplementation of Salary from Any Source but the Government</p> <p>*Note-This statute does NOT apply to SGEs.</p> | <p>An employee is prohibited from receiving any salary or contribution to or supplementation of salary from anyone but the Federal government as compensation for services as a government employee.</p> | <p>Is the outside activity compensated?</p> <p>Is it truly an "outside activity" and not an official duty activity?</p> <p>Does the outside activity involve services that are the same as the employee's official duties?</p> <p>Are there any "benefits" being offered in consideration for services?</p> <p>Are those benefits "customary" or are they specific to or contingent upon government service?</p> <p>Do any statutory "exceptions" apply?</p> |
| <p>5 CFR 2635.201-205</p> <p>Gifts from Outside Sources</p> | <p>An employee is prohibited from soliciting or accepting a gift from a prohibited source, or that is given because of his official position.</p> | <p>Is the item or benefit a gift?</p> <p>Is the outside entity a prohibited source?</p> <p>Is the gift a result of an outside business or employment activity of the employee?</p> <p>Is the gift being offered or enhanced because of the employee's official status?</p> |

Appendix 1:

REVIEWING OUTSIDE POSITIONS FOR CONFLICTS

| | | |
|---|---|--|
| <p>5 CFR 2635.502</p> <p>Impartiality in Performing Official Duties</p> | <p>An employee should not participate in a particular matter involving specific parties in which he knows a person with whom he has a covered relationship is or represents a party if a reasonable person would question his impartiality.</p> | <p>Does the employee have a covered relationship with the outside entity?</p> <p>Does the outside entity appear before the agency?</p> <p>Does the employee work on, or is he likely to work on, government matters that involve the outside entity?</p> |
| <p>5 CFR 2635.702-705</p> <p>Misuse of Position</p> | <p>An employee shall not use his public office for his own private gain or for the private gain of others with whom he is affiliated in a nongovernmental capacity.</p> <p>An employee shall not use or permit the use of his position, title or authority to: induce or coerce a benefit; to imply that his agency or the government sanctions or endorses his personal activities; or to endorse any product, service or enterprise.</p> <p>An employee shall not misuse: nonpublic information; government property; or official time.</p> | <p>Is there any indication that the employee used his government position to obtain the outside position?</p> <p>How will the employee be identified in connection with the outside activity?</p> <p>Will the employee use any nonpublic information?</p> <p>Will any use of government time or government property be involved/permitted?</p> |
| <p>5 CFR 2635.802</p> <p>Conflicting Outside Employment and Activities</p> | <p>An employee shall not engage in outside employment or any outside activity if:</p> <ul style="list-style-type: none"> - It is prohibited by statute or regulation; or - If it would require the employee's disqualification from matters so central or critical to the performance of his duties that it would materially impair his ability to perform his job. | <p>Is the proposed employment or activity prohibited by agency statute or regulation?</p> <p>Would the outside activity create any disqualifications for the employee under the conflict of interest or impartiality provisions?</p> <p>How substantial are those disqualifications?</p> |
| <p>5 CFR 2635.805</p> <p>Service as an Expert Witness</p> <p>*Note-More limited restrictions apply to SGEs.</p> | <p>An employee shall not serve as an expert witness (other than on behalf of the US) with or without compensation, in any proceeding before a court or agency of the US, where the US is a party or has a direct and substantial interest unless authorized.</p> | <p>Does the outside activity involve the provision of services as an expert witness, as opposed to a fact witness?</p> <p>Will the expert witness testimony be provided before a court or agency of the US?</p> <p>Is the US a party or does it have a direct and substantial interest in the proceeding?</p> <p>May authorization be given per 2635.805(c)?</p> |

Appendix 1:

REVIEWING OUTSIDE POSITIONS FOR CONFLICTS

| | | |
|--|--|--|
| <p>5 CFR 2635.807</p> <p>Teaching, Speaking and Writing</p> | <p>An employee shall not receive outside compensation for teaching, speaking or writing that relates to the employee's official duties per 2635.807(a)(2)(i).</p> | <p>Will employee receive "compensation" for the teaching, speaking or writing as defined in 2635.807(a)(2)(iii)?</p> <p>Does the teaching, speaking or writing relate to the employee's duties as defined in 2635.807(a)(2)(i)?</p> <p>For teaching ONLY, does the activity fall within the exception for certain courses at 2635.807(a)(3)?</p> <p>How will the employee be identified in connection with the teaching, speaking or writing?</p> |
| <p>5 CFR 2635.808</p> <p>Fundraising Activities</p> | <p>Any fundraising <u>in the federal workplace</u> must be conducted in accordance with 5 CFR Part 950 (the "CFC regulations.")</p> <p>In addition:</p> <p>An employee may engage in fundraising in his official capacity if he is authorized to do so according to his agency's authority to engage in such activity.</p> <p>An employee may engage in fundraising in his personal capacity provided he does NOT: Solicit funds from a subordinate or from anyone known to the employee to be a prohibited source; and</p> <p>Use or permit the use of his title, position or authority to further the fundraising effort.</p> | <p>Will the employee be participating in an event where fundraising will take place?</p> <p>Is the employee's participation in the activity official or personal?</p> <p>What is the nature of the employee's participation in the activity?</p> <p>Will the employee be engaging in fundraising on behalf of the outside entity?</p> <p>Is the outside entity a prohibited source?</p> <p>Who is being solicited in the fundraising activity?</p> <p>How will the employee be identified in connection with the fundraising activity?</p> |

TO: DEO LISTSERVE
FROM: Justina Fugh
SUBJECT: (ETHICS) OGE 450 Filing Season - Everything you need to know as DEO

Hi there!

Oops, so we're a little late getting out the annual reminder for everything you need to know about the OGE 450 Filing Season. Sorry, but it's busy here in Ethics Land! Okay, let's go! By the way, since this is such a long email, we've attached it also as a pdf document in case you want to print and review it. We've also linked this email, so you can jump around it according to the following topics:

THE BASICS

Designating your filers
Notifying your filers
Collecting the forms
Reviewing and certifying the forms
Securing and destroying the forms
A Word to the Wise - Why financial disclosure?

WHAT'S NEW THIS YEAR

New threshold amounts for reporting gifts
New update to the form

HOW THE OGE PROGRAM REVIEW AFFECTS YOU THIS YEAR

RESOURCES FOR COMPLETING REVIEW AND CERTIFICATION

Use of National Ethics Program Tracker in Lotus Notes
Soup-to-Nuts Checklist
Resources for reviewing what the filer reported

SAMPLE NOTIFICATION EMAIL to send your filers

THE BASICS

Designating your filers

KEY POINT: Review your list of 450 filers to ensure that it is correct.

Who are the OGE-450 filers in your organization?

YOU as the DEO (not us in OGC) are responsible for determining who are the confidential filers in your organization. To help you, check out [EPA Ethics Advisory 2009-02](#), "Confidential Financial Disclosure at EPA," and this [OGC/Ethics flowchart](#) for determining who should file. This advisory reminds you that

OGC expects that most supervisors, attorneys, inspectors and investigators will meet the requirements for filing, but that DEOs should make determinations on a case-by-case basis upon careful consideration of the following factors:

(1) ... the duties and responsibilities of the employee's position require that employee to participate personally and substantially through decision or the exercise of significant judgment in taking a Government action regarding:

- (i) Contracting or procurement;
- (ii) Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
- (iii) Regulating or auditing any non-federal entity; or
- (iv) Other activities in which the final decision or action will have a direct and substantial economic effect on the interests of a non-federal entity;

or

(2) ... the duties and responsibilities of the employee's position require the employee to file [the OGE-450] to avoid involvement in a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by that employee. Positions which might be subject to this reporting requirement ... include those with duties which involve investigating or prosecuting violations of criminal or civil law.

Please bear in mind that being excused from filing the OGE-450 does not mean that employees are somehow relieved of their ethical responsibilities. By focusing on people who are likely to meet both prongs of the regulatory test (i.e., employee makes decisions or takes actions that affect any non-federal entity AND exercises a great deal of discretion or decision-making authority), we hope that you can focus properly on conflicts reviews. You should consider encouraging all employees, not just filers, to take annual ethics training to ensure that they are all aware of their ethical responsibilities.

Contracting Office Representative (COR) filing status

We continue to expect that the Office of Acquisition Management will change the Contracting Management Manual to remove the requirement that all CORs must file the OGE-450. Until then, know that you as the DEO are responsible for making your own determination about whether CORs should file the financial disclosure form consistent with Ethics Advisory 2009-02.

Notifying your filers

KEY POINT: Distribute the [OGE-450](#) to your filers now.

When can you start telling people to file their forms?

Beginning now, you can notify confidential financial disclosure filers that it's time to start filing their reports. They need to complete their forms by February 15, 2018 (assuming you don't grant any extensions). If asked, you may grant extensions of time to file (up to a maximum of 90 days).

Can filers use the OGE-450A (short form) this year?

Yes. However, OGE/Ethics does not love the short form, so we don't use it. If you like, you as the DEO, can decide not to use this form, too. We see greater value in the long form without that much more work for the filer. For example, if the filer has nothing to report, then all he needs to do is complete the cover page on the normal OGE 450. Or, alternatively, if nothing has changed, then the filer can use his last saved OGE 450 and simply update the cover page with his signature and date (but be sure it's on the new form dated January 2017). The disadvantage of using the 450-A is that, to be diligent, you, as the reviewer, always have to look back to the last "long" form the filer completed to check to make sure there are no conflicts anyway.

Where to access the forms

Please visit the OGC/Ethics website under "Financial Disclosure Forms" located at <http://intranet.epa.gov/ogc/ethics/forms.htm> or go to the Office of Government Ethics [Form Library](#).

What you should remind filers

This year we're providing a sample notification email for your use. However, if you want to use your own reminder, then be sure to include:

- The federal ethics rules apply to employees in same-sex marriages in the same way they apply to all married employees. Provided that the marriage was performed in a state that recognizes same-sex marriages, then the employee must report on the assets and income of the spouse.
- OGE-450 filers must report sector mutual funds but are not required to report diversified mutual funds. They do not have to report student loans, revolving charge accounts, or loans from banks or other financial institutions on terms that are generally available to the public. They do not have to report mortgages on rental property.
- Here's a synopsis of the *gift reporting requirements* for filers:

Tangible gifts: Report gifts that exceed \$390 received in your personal capacity from a non-relative. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. Gifts from "relatives" (including spouses) are not reportable, and the applicable statute defines this term broadly to include persons related by blood or law or a fiancé(e). However, gifts beyond the reporting threshold from a boyfriend, girlfriend, significant other must be reported because those relationships are not included in the federal definition of "relative."

Gifts of travel: Report gifts of travel received in your personal capacity from any source that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. DO NOT report any gift of travel that was accepted by OGC under 31 USC 1353 (using the ethics travel form) or 5 USC 7342 (Foreign Gifts and Decorations Act). However, DO report gifts of travel that was approved under 5 USC 4111 (the Government Employees Training Act) even if you were on official travel.

Gifts of free attendance: Don't forget that you may have to report a gift given because of your official position that fell under the widely attended gathering (WAG) exception at 5 CFR 2635.204(g)(2). If you attended a reception or other gathering, and the cost of the free attendance exceeded \$390, then you have to report that gift on your financial disclosure report. The reason is that the WAG rule makes clear that the employee who receives such a gift must be on annual leave or an excused absence, so the gift is to the individual employee and not to the Agency. Any individual gift of \$156 or less from that same source may be excluded from the aggregation.

Collecting the forms

KEY POINT: Put the Date Received in the Upper Left Hand Corner

What do I need to do when I receive the forms?

Use our handy dandy checklist for complete soup-to-nuts lifecycle for each form (forthcoming). However, if the filer walks into your office to hand you her form, do these things immediately:

- Put the Date Received in the box of the upper left hand corner
- Make sure that the filer checked all the “yes/no” boxes for the five statements in the middle of the cover page
- If the filer checked “yes” to any statement, check to make sure there are reportable items for each respective part
- Make sure the filer signed her report and dated it. We still don’t have allow digital signatures.

Doing these four things right when you receive the form with the filer still in your office will solve most issues for follow up.

Who can receive the forms and log them into a recording system?

Remember, these are confidential forms with private information. Make sure you develop a system for recording receipt of the form that minimizes the number of hands it passes. Preferably, it should go to the Deputy Ethics Official or the Alternate Deputy Ethics Official directly.

When will we accept digital signatures, or better yet, e-filing?

The good news is that we have been making progress on digital signatures, but we aren’t there yet. We’re exploring e-filing systems, too. As we’re migrating away from Lotus Notes, the new software tools we’re looking at will hopefully make your job easier for the next filing cycle. But for now, we still can’t accept digital signatures; however, a scanned pdf is fine.

Reviewing and certifying the forms

KEY POINTS: You have 60 days from date of receipt to review and certify.
You need to date the report when you certify it.

Did the 60-day date change? Didn’t it use to be around April 15?

Yes, generally, in the past, we have asked you to make sure you complete your review and certification of the forms 60 days from the filing deadline of February 15. The majority of the forms come in right around the filing deadline, so we still advise that you make sure to certify them by April 16 of this year (the 15th is a Sunday).

Is there an exception to the 60-day review deadline?

Yes. If you review a form and need more information from the filer, then the clock stops when you contact the filer and resumes when you have received the information requested from the filer.

Who can certify the report?

Only the Deputy Ethics Official can certify the report. And remember to date it! The Office of Government Ethics recently faulted EPA because reports either didn’t have the certifying signature or

were missing the date on which the DEO certified it. If another employee (e.g., the ADEO) reviews it, there is another place on the form, "other reviewer," for that signature.

Securing and destroying the forms

KEY POINTS: **Keep the forms secured.**
 Destroy forms older than six years.

What are the requirements for keeping the form secured?

Don't leave the forms lying around! They have private information on them. Keep them secured in either a locked filing cabinet or in a locked room.

How long do I keep the forms?

Don't keep the forms for longer than six years. That's the records retention schedule. If there is an ongoing investigation, then keep it; but otherwise, as you file your certified reports remember to pull out any forms filed in 2012 or earlier. They need to be shredded.

A Word to the Wise – Why financial disclosure?

Financial disclosure is the cornerstone of federal ethics. You should not regard this as a mere paperwork exercise. Rather, this is your opportunity (and your obligation) to ensure that your employees are in fact complying with their conflict of interest obligations. Take time to do an effective and thorough conflicts review. If you need help, then please let us know.

WHAT'S NEW THIS YEAR

New threshold amounts for reporting gifts

OGE has raised the monetary threshold for the reporting of gifts, effective for CY2017. Every three years, this amount changes. For more information on this read the [OGE Legal Advisory LA-17-07](#).

New update to the form

Because of the changes to the gift reporting thresholds, that changes the instructions on the form. Therefore, OGE has issued a new form to account for these changes. OGC/Ethics has updated the [links](#) on our intranet site. And here's the link to the form [here](#). When you distribute the form, be sure you are directing your filers to the January 2017 version (look in the upper left hand corner to see which form you have). So, if you're updating an old email to distribute to your filers, you'll also need to update the links to the forms and/or attachments, if you include them.

HOW THE OGE PROGRAM REVIEW AFFECTS YOU THIS YEAR

Remember that the Office of Government Ethics started a review of EPA's ethics program in 2016 and issued its report in March 2017. It found several areas for improvement with EPA's 450 program administration. After this year's filing cycle, OGE will be back to spot check 450 forms to determine

whether there has been improvement. If you were one of the [offices](#) OGE reviewed in 2016, be prepared for another mini review later this spring. However, OGE could ask any office to review its 450 forms, so please be prepared.

To assist you in implementing improvements and after seeking feedback from the ethics community in November 2017, OGC/Ethics will be issuing a soup-to-nuts checklist to facilitate your collection and review of the 450s (in a forthcoming email). Also, we're putting together an exhaustive go-to resource list to have at your fingertips to answer any question you may have about items you review on the forms. In the meantime, here's a quick list of the areas we need to improve:

- Collect reports timely. New entrant reports are due within 30 days of entering the position, and annual reports are due February 15.
- Put the DATE OF RECEIPT in the box of the upper left hand corner of the form.
- Review and certify forms within the 60-day review clock (that's why you need to indicate the date of receipt). The exception is that the clock stops when you go back to the filer to obtain clarification, but resumes when you have the missing information.
- Make sure the filer MANUALLY signs the form and DATES it! Do not accept digital signatures.
- Only the DEO can certify the form and he/she must DATE it when he/she certifies it!
- Follow the records retention schedule – shred forms older than six years if no longer needed (i.e., if there is an investigation, keep it).

RESOURCES FOR COMPLETING REVIEW AND CERTIFICATION

Use of National Ethics Program Tracker (NEPT) in Lotus Notes

As long as your office renewed your Lotus Notes license, then you can use NEPT to track the collection and certification of your 450s for one last year! OGC/Ethics will turn on the reminders to run weekly, every Thursday, beginning January 18.

Soup-to-Nuts Checklist

OGC/Ethics is creating a checklist for your use that will cover the lifecycle of the 450 form, from the time you receive it to the time you destroy it. Use of this checklist will help improve program administration and eliminate the errors that OGE found and address its recommendations. OGC/Ethics expects to issue this checklist the week of January 15.

Resources for reviewing what the filer reported

Also, based on quick feedback from the ethics community in the November monthly meetings, OGC/Ethics found that a quick and ready list of resources to help you review the forms. While resources are also available on our [intranet site](#), we will also curate this list and format it for email use.

SAMPLE NOTIFICATION EMAIL to send your filers

This is a chatty email, but covers all requirements. You're welcome to use it or crib from it to make it your own! **MAKE SURE YOU INSERT YOUR NAME AS APPROPRIATE (SEE HIGHLIGHTED AREAS). COPY AND PASTE INTO A NEW EMAIL (DO NOT FORWARD THIS EMAIL).**

TO: Your 450 filers
FROM: You, the DEO
SUBJECT: (ETHICS) Baby it's cold outside! And that means . . .

Winter has finally arrived and now that we have seasonal weather, there is also the seasonal 450 filing!

Yes, it's that time of the year again. Get a nice cup of tea, hot cocoa, or coffee. Pull out your financial documents. It is confidential financial disclosure season once again. Keep reading for directions – I will try to make this as painless as possible.

Important Note: Don't forget that if you're in a same-sex marriage, you have to disclose the reportable assets and income of your spouse.

Where is the form?

[OGE Form 450](http://intranet.epa.gov/ogc/ethics/forms.htm#filer) is a click away. If you prefer to access it from the Ethics Intranet Page, all the information is here and there are helpful resources on this page, too: <http://intranet.epa.gov/ogc/ethics/forms.htm#filer>

New Form This Year

If you save an electronic copy of the form and simply edit it for each year's filing, you'll have to start over this year (sorry!). The Office of Government Ethics issued a new form in 2017, so be sure you're using the January 2017 form. If you use the link above, that will take you to the 2017 form. You can also check to verify you are using the correct form by reviewing the upper left hand corner on each page of the form.

This form is 7 pages long. Is there any way to save paper?

Well, we ethics officials have paper-saving techniques! While **you cannot electronically submit** your form (we'll get to that day sometime soon), you can print out only the pages on which you are reporting information. AND, the best part, if you have no reportable information, then you need only to print out the cover page. How exciting is that?!

What's the deadline?

I need your form no later than Thursday, February 15.

Where do I submit the form?

Be sure you submit your form to **INSERT APPROPRIATE NAME**. My office is Room XXX or you can route forms to me at MC XXXX.

Can you go over those gift-reporting thresholds, again?

YES! The reporting threshold for reporting gifts and reimbursements is \$390. I know, not a lot, but who knows?! Maybe that generous iPad gift from your best friend, valued at \$349, doesn't make the cut! (no endorsement intended!) Remember, you HAVE TO report certain gifts and travel reimbursements:

Tangible gifts: you have to report gifts you, your spouse, or dependent child(ren) received from a non-relative that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. Gifts from your significant other must be reported, while gifts from your spouse or mother do not.

Gifts of travel: you have to report gifts received in your personal capacity from any source that exceed \$390. Any individual gift of \$156 or less from that same source may be excluded from the aggregation. You do not have to report any gift of travel that was accepted by OGC under 31 USC 1353 (using the ethics travel form), but you do have to report any gift of travel that was approved under 5 USC 4111 (the Government Employees Training Act).

Gifts of free attendance: you may have to report any gift given to you pursuant to the widely attended gathering exception at 5 CFR 2635.204(g)(2). For example, if you attended a reception or other gathering, and the cost of the free attendance exceeded \$390, then you have to report that gift on your financial disclosure report. The reason is that the WAG rule makes clear that the employee who receives such a gift must be on annual leave or an excused absence, so the gift is to the individual employee and not to the Agency. Any individual gift of \$156 or less from that same source may be excluded from the aggregation.

Can you go through those quick tips from last year?

* The reporting period for you is January 1, 2017 to December 31, 2017 (CY2017).

* You DO NOT have to report any money market mutual funds or money market accounts or DIVERSIFIED mutual funds.

* You DO NOT have to report your TSP or your EPA salary.

* **DON'T FORGET to answer those five questions on the cover page – answering those questions determines which parts of the form you need to complete. If you have no reportable information, then the cover page is all that I need.**

*READ THE INSTRUCTIONS - they are surprisingly helpful!

*** SIGN THE FORM – NO DIGITAL SIGNATURES ***

Need more help completing your 450?

Call or email XXXX or check out our very helpful intranet page. We have a quick tutorial on what needs to be reported **and there are FAQs:**

<http://intranet.epa.gov/ogc/ethics/forms.htm#filer>

Why am I filling out this form?

The 450 system facilitates the review of possible conflicts of interest. Our mission is to avoid and prevent conflicts of interest from happening and preserve the integrity of our mission, programs and policies. The 450 reports are the first step to providing tailored counseling to you, if necessary, about how your private interests may conflict with your public duties and help you to prevent ethics issues. I've designated you to file because your duties and responsibilities may have a direct and substantial effect on the financial interests of non-federal entities, or there may be a potential for a conflict of interest, appearance of favoritism or loss of impartiality.

Cheers and here's to the arrival of winter!

Your Deputy Ethics Official

From: [Duross, Jeanne](#)
To: [OGC National Ethics Officials](#)
Cc: [Koslow, Karin](#); [Grifo, Francesca](#)
Subject: ETHICS Advice -- Recent Survey Requests
Date: Tuesday, February 13, 2018 2:53:59 PM
Attachments: [Region 3 Declination Univ MO Survey Letter.pdf \(0022\).pdf](#)

Good Afternoon,
OGC/Ethics has heard from many of you regarding two recent survey requests, one aimed at federal scientists across the executive branch and one aimed at federal employees with FOIA responsibilities. EPA employees are wondering if they may take these surveys, and if so, whether the surveys must be completed in their personal or official capacities. **In both cases, employees MAY participate in their personal capacities. A more detailed analysis of the applicable rules to each email is contained below.**
These survey requests pop up periodically (In fact, we sent our last note about surveys just last summer!). We hope it is helpful to take these opportunities to remind everyone of the applicable rules. For your convenience, here is some brief advice you can share with your colleagues, based largely on responses prepared by some of our regional ethics officials over the last week or so (and also reflective of the advice on our [OGC/Ethics Intranet page](#)). Many thanks to the regional ethics officials who have already provided swift advice to their regional colleagues.
Let us know if you have any questions or if we can help you further. Thank you!

1. EMAIL: Iowa State University Center for Survey Statistics and Methodology and the Union of Concerned Scientists (UCS)

This email survey is aimed at federal scientists from a large number of federal agencies across the executive branch. It provides a number of ways to complete the survey, including by hyperlink, by visiting the UCS website, by downloading a PDF of the survey and submitting a paper copy, or by telephone at a number provided. The email also notes that you are being asked to respond in your personal capacity and recommends that you complete the survey outside of work hours and on your personal equipment. No compensation is offered for completing the survey.

ETHICS CONSIDERATIONS AND ADVICE

- If you choose to respond to the survey, you may do so **in your personal capacity** and must abide by the appropriate ethics rules highlighted OGC Ethics' [quick ethics tip on answering surveys from outside EPA](#). We always recommend that you review the full ethics tip. But, here, for your convenience are the highlights -- if you choose to respond, remember:
 - You cannot use government time to respond to the survey.
 - You can't divulge nonpublic information in completing the survey.
 - Pay attention to how the survey identifies you. The access code in this survey is linked to your EPA email address. But, you aren't representing EPA but rather sharing a personal opinion. Remember that you cannot identify yourself solely by reference to your EPA title or position (The ethics rule is that mention of EPA affiliation is permitted as one of several biographical details, if given no more prominence than the others).
- Remember the "[which lane are you in?](#)" guidance we distributed about a year ago? While it may be okay under the Limited Use of Government Equipment Policy to use EPA equipment on your own time to answer the survey, the prudential ethics advice is that you should NOT use EPA equipment to do so.
- As always, if you have any questions about this, or other ethics concerns, please contact your Deputy Ethics Official for more information.

2. LETTER: University of Missouri Survey of FOIA Officers

The Missouri School of Journalism sent a letter to EPA FOIA officers asking them to participate in a survey concerning perspectives on government transparency and FOIA requests from journalists. The letter enclosed two dollars in compensation for completing the survey but indicated that participation in the survey was voluntary, whether or not the individual accepted the two dollars.

Region 3 consulted with OGC/Ethics after receiving this request. They declined collectively to participate and shared their response, which includes language demonstrating how to return the two dollars enclosed. We've attached that response to this email. Remember that you can decide differently and participate in the survey in a personal capacity -- provided you do so in accordance the advice below, which requires you to decline the money.

ETHICS CONSIDERATIONS AND ADVICE

OGC/Ethics' advice with respect to this survey is the same as that for the Iowa/UCS survey above, **with the significant addition that you CANNOT ACCEPT THE TWO DOLLARS ENCLOSED WITH THE SURVEY.**

- Again, if you choose to respond to the survey, you may do so **in your personal capacity** and must abide by the appropriate ethics rules highlighted OGC Ethics' [quick ethics tip on answering surveys from outside EPA](#). If you choose to respond, remember the rules:
 - You cannot use government time to respond to the survey.
 - You can't divulge nonpublic information in completing the survey.
 - Pay attention to how the survey identifies you. Remember that you cannot identify yourself solely by reference to your EPA title or position (Mention of EPA affiliation is permitted as one of several biographical details, if given no more prominence than the others).
 - **You may not accept the two dollars enclosed in the letter. Why? Because federal employees may NEVER accept a gift of cash.**
- Once more, remember the "[which lane are you in?](#)" guidance. It bears repeating that while it may be okay under the Limited Use of Government Equipment Policy to use EPA equipment on your own time to answer the survey, OGC/Ethics' advice is that you should NOT use EPA equipment to do so.
- And, as always, if you have any questions about this, or other ethics concerns, please contact your Deputy Ethics Official for more information.

Ethics Attorney | Office of General Counsel | US EPA | Mail Code 2311A | Room 4407F North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-6595| epa mobile 202-579-7848|fax 202-564-1772

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: Ethics Reminders for EPA Employees -- please distribute
Date: Friday, February 03, 2017 6:00:15 PM
Attachments: [Which lane are you in-official v personal capacity.pdf](#)
[Reminder about Hatch Act rules.pdf](#)

Dear ethics colleagues,

Lately, we have received questions about how to advise employees who wonder about the possible ethical implications of sharing their personal opinions, including on matters that relate to EPA, in social media. This message is written so that you may share it directly with your staff (in the message, the “you” refers to EPA employees). Please distribute the message below (including the two attachments), as is, to your employees as soon as possible. If you have any questions about this reminder, please feel free to contact me.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

FROM
OGC/ETHICS

February 3, 2017

ETHICS REMINDERS FOR EPA EMPLOYEES

Many EPA employees have inquired about the possible ethical implications of sharing your personal opinions on science, policy or politics, particularly in social media. You as a United States citizen are free to express yourself about matters that are important to you, including ones that relate to EPA. Your ability to express yourself includes doing so in the workplace and in personal social media. But, when you do express yourself in the workplace or EPA (which *is* your workplace), there are three things you should bear in mind: the federal ethics rules continue to apply to you as they always have; the rules depend on whether you are speaking in your official EPA capacity or your individual personal capacity; and your expression of your views in the workplace needs to comply with agency orders prohibiting conduct that is “abusive or offensive,” or that constitutes harassment.

Understanding the Ethics Rules

-
While you may express yourself, please remember that you can’t misuse your federal position when doing so. We want to help ensure you understand every employee’s ethics obligations while being clear that we are not limiting or expanding your ability to act or communicate, nor

taking any position in support of or against such actions or communications. This message explains the ethics rules you should consider when you speak or write or otherwise express your opinions.

Let's start with the basics. The ethics rules have not changed because we have a new Administration. We, as EPA employees, are still bound by the [Hatch Act](#) and the [Standards of Ethical Conduct for Employee of the Executive Branch](#), and the [conflict of interest statutes](#). The ethics rules do not change depending on the type of forum. The same rules about [misuse of position](#), EPA's [limited personal use policy](#), [fundraising](#) and the [Hatch Act](#) apply to your use of social media, tweeting or blogging as they do to non-virtual, more traditional forms of communication.

Understanding the Capacity In Which You Are Acting

-

In terms of ethics rules, we view any activity in one of two ways: either you are acting in your *OFFICIAL EPA* capacity, or you are acting in your *INDIVIDUAL PERSONAL* capacity. There is no in-between, no "professional" capacity category. It's either official duty or individual personal capacity.

When speaking or writing, including blogging and in social media, you should be clear in what capacity you are communicating. We liken it to staying in your designated lane when driving: you can be in one lane of the highway or the other, and you can also switch lanes, but don't straddle the dotted line or weave back and forth. The safest drivers stay in the middle of their designated lane and signal appropriately when they are changing lanes. It's the same with ethics. The ethical employee knows and makes clear to others when she is acting in her official capacity versus her personal capacity.

Typically, an activity is undertaken in OFFICIAL CAPACITY when it is consistent with statutory authority and Agency or office mission and assigned duties. When working in your official capacity, you can use EPA time and resources, including EPA email address, EPA phone number, EPA equipment and property and, if applicable, subordinates. To participate in INDIVIDUAL PERSONAL CAPACITY, we urge you not to use your EPA email address or contact information and, if possible, not refer to EPA position or title. If you feel you must refer to your EPA position or title, then the prudential advice is to do so as one of several biographical details with EPA not having any undue prominence. You should be clear you are expressing an individual personal opinion, not speaking on behalf of the Agency. While the agency does have a limited personal use policy that allows some personal use of EPA equipment such as computers, if expressing a personal opinion publicly on a subject, it is safest to avoid the use of EPA equipment.

Understanding Some Limits on Conduct

Displaying offensive materials or engaging in conversations that constitute “abusive or offensive language, gestures, or other conduct” as listed in [EPA Order 3120.1](#) is prohibited. Harassment based on conduct that is threatening, intimidating, and/or bullying will not be tolerated, per [EPA Order 4711](#).

For Those Who Want to Know More

To assist you in navigating the ethics and Hatch Act rules that apply to communications, whether in personal or official capacity, we created a couple of charts. We hope they help guide you to stay in the correct ethics “lane.” Treat your fellow employees with the dignity and respect we all deserve and to stay committed to and focused on our core mission, protecting human health and the environment. As always, if you have an ethics question, please don’t hesitate to contact the OGC Ethics team, your regional ethics counsel or your [Deputy Ethics Official](#). To reach OGC Ethics, send an email to ethics@epa.gov.



Event Location

Travel Starts

Incorrect data type for operator or @Function: Time/Date expected

Event Sponsor(s)



DEO or designee

Employee Name

Leslie Gorman

Title

Organization

OECA,OCEFT,CID

Phone Number

619-230-7505

Traveler's Role

☐ Official Duty ☐ Outside Activity

Travel Ends

Incorrect data type for operator or @Function: Time/Date expected

Purpose of Event

Spousal expenses included?

☐ Yes ☒ No

Who is the non-federal person(s) or entity(s) paying travel expenses?

Name of Organization:

Address:

What kind of entity is this?

- ☐ for-profit
- ☐ state/local government
- ☐ College/University
- ☐ not for-profit
- ☐ foreign government
- ☐ Other (explain below)

Describe the entity (source) paying travel expenses. If the source of the travel expenses is an organization, describe the membership of the organization. For example, the "Center for Sound Science" may be largely made up of companies which produce chemicals regulated by your program or interest groups who take a position on our policies or regulations. (You can attach files below.)

do not omit this explanation!!!!

Is this source a party to a matter that is pending before you for decision, such as a contract or assistance agreement matter, permit, license, etc.? *If "Yes", then acceptance of travel expenses cannot be approved*

☐ Yes ☐ No

Is this source paying the travel through an EPA contract, Federal assistance agreement O R F E D E R A L G R A N T (including a recipient's matching share)? *If "Yes", then acceptance of travel expenses cannot be approved*

☐ Yes ☐ No

Is this source otherwise affected by EPA matters in which you participate?

☐ Yes ☐ No

If "Yes," describe the matter and attach explanation (below).

Itemization of benefits

Amount & METHOD of payment

| | IN KIND | IN CASH |
|-------------------------------|---------------------------------|--------------------------------------|
| | ticket, meals etc., est. the \$ | must be a check etc. made out to EPA |
| Common carrier transportation | \$0.00 | \$0.00 |
| Meals | \$0.00 | \$0.00 |
| Lodging | \$0.00 | \$0.00 |
| Local transportation | \$0.00 | \$0.00 |
| Waiver of fees | \$0.00 | \$0.00 |
| Other (specify) | \$0.00 | \$0.00 |
| Sub Total | \$0.00 | Sub Total \$0.00 |

TOTAL →→→→→ \$0.00

(NOTE: For travel outside the United States, different rules may apply. Check with your ethics advisor.)

Does this amount exceed the amount payable under Federal Travel Regulations?

(see <http://www.gsa.gov> for per diem rates)

☐ Yes ☒ No


Any other explanations or attachments 

Traveler's Certification

By: 

Date:

Traveler Information (click here to open/close)



EPA
 Approval to Accept Travel
 Under Ethics Reform Act of 1989

Event Location

Travel Starts
Event Sponsor(s)
DEO or designee
Employee Name
Title
Organization
Phone Number

Traveler's Role

☐ Official Duty
 ☐ Outside Activity

Travel Ends
Purpose of Event

Spousal expenses included?

☐ Yes
 ☐ No

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Name of Organization:
Address:
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 do not omit this explanation!!!!

Is this source a party to a matter that is pending before you for decision, such as a contract or assistance agreement matter, permit, license, etc.? *If "Yes", then acceptance of travel expenses cannot be approved*

☐ Yes
 ☐ No

Is this source paying the travel through an EPA contract, Federal assistance agreement **O R F E D E R A L G R A N T** (including a recipient's matching share)? *If "Yes", then acceptance of travel expenses cannot be approved*

☐ Yes
 ☐ No

Is this source otherwise affected by EPA matters in which you participate?
 If "Yes," describe the matter and attach explanation (below).

☐ Yes
 ☐ No

Itemization of benefits

Amount & METHOD of payment

| | IN KIND | IN CASH |
|-------------------------------|---------------------------------|--------------------------------------|
| | ticket, meals etc., est. the \$ | must be a check etc. made out to EPA |
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| Waiver of fees | \$0.00 | \$0.00 |
| Other (specify) | \$0.00 | \$0.00 |
| Sub Total | \$0.00 | \$0.00 |
| | | TOTAL →→→→→ \$0.00 |

(NOTE: For travel outside the United States, different rules may apply. Check with your ethics advisor.)

Does this amount exceed the amount payable under Federal

☐ Yes
 ☒ No

Travel Regulations?

(see <http://www.gsa.gov> for per diem rates)

Any other explanations or attachments 

Traveler's CertificationBy: 


Date:

Approving Official's Certification

By:

Date:

☐ **Hold Pending Review****NOTE FROM APPROVING OFFICIAL:****Additional Attachments / Explanations:**

 This amendment replaces the Amount & Method of Payment table you submitted above. The amendment is pre-filled with the amounts you entered earlier -- edit these amounts as needed to reflect your post-travel actuals.

AMENDED Travel Starts**AMENDED Travel Ends****AMENDED Itemization of benefits** (Show all that apply)**AMENDED Amount & Method of Payment**

| | In Kind (ticket, meals etc., est. the \$) | In Cash (must be by check or other instrument made out to EPA) |
|---|---|--|
| Common Carrier Transportation | \$0.00 | |
| Meals | \$0.00 | \$0.00 |
| Lodging | \$0.00 | \$0.00 |
| Local Transportation | \$0.00 | \$0.00 |
| Waiver of Training/Attendance/Participation Fee | \$0.00 | \$0.00 |
| Other (Specify) | \$0.00 | \$0.00 |
| Sub Totals | \$0.00 | \$0.00 |
| AMENDED Total | | \$0.00 |

Comments about any other items which changed after the original submission:

Traveler's Certification of AMENDMENT

By:

Date:

Approving Official's Certification of AMENDMENT

By:

Date:

Comments:

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: News about the ethics travel form ... what to do?
Date: Friday, January 12, 2018 3:20:26 AM
Attachments: [FILLABLE Ethics Travel Form.pdf](#)
[MANUAL Ethics Travel Form - to fill out by hand.pdf](#)

Hello Again!

This email is the third in a series of emails we're sending out over the few days regarding your winter responsibilities as well as updates to the ethics program. This email discusses the use of the ethics travel form in Lotus Notes while we finish testing our new web-based ethics travel form (and finally migrate away from Lotus Notes). We expect to go live soon.

But in the meantime, what do we do? **For now, the ethics travel form is still operating in Lotus Notes.** For those employees whose offices renewed their licenses for Lotus Notes, all is well and you should follow the same procedures as you always have. Surprisingly, we have not heard a peep from anyone with access issues to the ethics travel form (so far!). So, we're hoping that for most of our travelers, their licenses were renewed. (gosh, I hope we didn't just jinx ourselves!)

At the end of 2017, EPA moved away finally from Lotus Notes, so those employees who did not get renewed subscription licenses turned into pumpkins. This email explains what you should for employees who want to submit an ethics travel form in the near term. For those employees who do not still have access to Lotus Notes, please follow these steps:

- 1) BEFORE THE TRIP, the employee needs to complete either the fillable form or the blank form. Both versions are attached to this email.
- 2) The employee then forwards the form via email to his or her Deputy Ethics Official. For now, OGC/Ethics will accept the forwarded email from the employee's email account in lieu of seeing a signature (in other words, we aren't going to make you actually sign a printed page).
- 3) The Deputy Ethics Official will then review the request. Then, if the DEO has no concerns or changes, the DEO will forward the email and attachment to ethics@epa.gov with a cc to Jennie Keith. **Please put in the subject line: Ethics Travel for TRAVELER'S NAME (TRAVEL START DATE).**
- 4) On Fridays, Jennie will review all the manual forms and then input them into the system. She will respond back to both the DEO and the traveler with approvals and/or questions for follow up, and attach a pdf of the final approval form for the voucher.

Whew! Please let us know if you have any questions, and thanks for sticking with us as we navigate through these tech changes!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

HATCH ACT RULES**Apply to every employee, all the time**

The [Hatch Act](#) governs political activity (any activity directed toward the success or failure of a partisan candidate, political party or partisan political group). It does not apply to nonpartisan issues or events. This [Hatch Act chart](#) describes how the rules apply to you, depending on your type of appointment.

- All employees may:
 - Express their opinions privately and publicly on political subjects;
 - Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;
 - Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization; and
 - Participate fully in public affairs, except as prohibited by other federal law, in a manner that does not compromise their efficiency or integrity as employees or the neutrality, efficiency, or integrity of EPA. See 5 C.F.R. § 734.203, available at [5 C.F.R. Part 734](#).
- The [Office of Special Counsel](#) oversees implementation (and prosecution of) the Hatch Act. It has a general [FAQ on the Hatch Act](#) (most of us are lesser restricted employees), as well as an [FAQ specific to the Hatch Act and social media](#).

For more information on social media and the Hatch Act, visit the [OGC/Ethics website](#).

From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: REVISED Hatch Act guidance (because a link is broken)
Date: Tuesday, May 15, 2018 11:05:00 AM
Attachments: [Ethics Reminders for EPA Employees.pdf](#)
[Which lane are you in-official v. personal capacity.pdf](#)
[Reminder about Hatch Act rules.pdf](#)

Dear EPA Ethics Officials,

It's time for another Hatch Act update! ([this time, with all working links](#)) ...

WHAT IS THE HATCH ACT?

All EPA employees are subject to the Hatch Act, which regulates "political activity," meaning any activity that is directed at the success or failure of a candidate for partisan office, a political group, or a political party. As federal employees, we face certain constraints in our political activity. Some of the Hatch Act rules apply differently, depending on our type of appointment. For example, further restricted employees (e.g., career SESers) face even more limitations on their political activity, even in their personal lives. Check out this helpful [Hatch Act chart](#) to see how it applies to you.

It's important to remember that some of the Hatch Act restrictions apply 24 hours a day/7 days a week, *even when we are acting in our personal capacities*. For example, *no EPA employee can ever*:

- Run for partisan office;
- Use EPA authority or affiliation in connection with political activity; or
- Engage in any political fundraising, including using your personal email or computer to forward or send messages that contain a request for political donations or donation links

Most employees (except for Presidentially Appointed Senate-confirmed appointees) can *never* engage in political activity while in a federal room or building or while they are working. For this prohibition, it doesn't matter that you are using your personal cell phone or logging onto your personal email account. Nearly all employees are *never* permitted to engage in political activity in the federal workplace. This prohibition extends to your telework site during the time that you are actually teleworking.

DONALD J. TRUMP IS OFFICIALLY A CANDIDATE FOR RE-ELECTION

Recently, the Office of Special Counsel (OSC) – the independent agency that oversees the Hatch Act -- issued [updated guidance](#) that *Donald J. Trump is officially a candidate for reelection*.

Because EPA employees are prohibited from engaging in political activity while on duty or in the federal workplace, the President's status as a candidate affects what activity is permissible in the workplace. To be clear, this prohibition on political activity in the federal workplace extends broadly and encompasses more than displays and communications. Whenever you are on duty or in the federal workplace (at any time of day or night), you cannot engage in activity that expressly advocates for or against President Trump's reelection:

- Do not send emails, texts or posts in social media even on your personal account or using a personal device.
- Do not wear, display, or distribute items with slogans, materials, or hashtags from either the 2016 or 2020 Trump campaigns;
- Do not use hashtags for or against President Trump's reelection in official EPA or even personal social media posts or other venues;
- Do not display non-official pictures of President Trump; however, official pictures of President Trump carrying out official Presidential duties may continue to be

displayed in the federal workplace.

This prohibition on political activity at work or in the federal workplace also extends to in-person communications with others, so we urge employees and especially supervisors to exercise extreme caution when sharing their personal political views. As a helpful reminder, we have attached our February 2017 ethics reminder and attachments on the difference between official versus personal capacity.

The Office of Special Counsel (OSC) shared some examples of messages, items, posters, and apparel that are NOT permitted on government property or while on official duty:

- “MAGA” hats, shirts, sweaters, jackets, mugs.
- “Deep State University” or “#RESIST” hats, shirts, sweaters, jackets, mugs.
- Other 2016 campaign items such as apparel, mugs, posters.
- Items or apparel related to the other 2020 candidates, John Delaney and Andrew Yang.

* NOTE: OGC/Ethics includes these examples for informational purposes only, not to further any political activity. How else will you know what we mean unless we show you?

HATCH ACT AND SOCIAL MEDIA

OSC also issued two very helpful “Hatch Act and Social Media” documents: the [Hatch Act Guidance on Social Media](#) (updated in February 2018, so more recent than the document linked in the attached EPA document from February 2017). This revised guidance features a number of real world examples to illustrate how social media and the Hatch Act intersect, while the OSC’s new-for-2018 [Social Media Quick Guide](#) is an easy-to-read reference.

HATCH ACT QUESTIONS?

For more information about the Hatch Act, visit the OGC/Ethics intranet site or the Office of Special Counsel’s site (www.osc.gov). You can also consult your deputy ethics official, regional ethics counsel, or the [OGC/Ethics office](#). You can also send a message to OGC/Ethics at ethics@epa.gov.

Finally, unless you’ve been living under a rock, you know that EPA Ethics has been in the news recently. We appreciate the many emails and calls of support we have received, and we remain immensely proud to be serving in this Agency with such dedicated ethics officials. You bolster us each and every day. Thank you!

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From: [Fugh, Justina](#)
To: [OGC National Ethics Officials](#)
Subject: What do you need on a Tuesday morning? Hatch Act updates, of course!
Date: Tuesday, May 15, 2018 10:15:00 AM
Attachments: [Ethics Reminders for EPA Employees.pdf](#)
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| WHICH LANE ARE YOU IN? | |
|---|--|
| Official Capacity (on behalf of EPA, as an employee) | Personal Capacity |
| <p>Generally ...</p> <ul style="list-style-type: none"> Consistent with statutory authority and Agency or office mission and assigned duties. Need supervisory approval to engage in the activity. Cannot be compensated by an outside party. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> You can use official time on the activity, consistent with supervisory approval. You can use EPA resources including computer, copier, EPA email address or phone number, administrative support. You cannot use non-public information. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> Use your official title. Depending on the level of review, you may need to include a disclaimer. <p>Social Media</p> <p>Relatively few employees are responsible for maintaining or using EPA's official social media posts. See EPA's policies on official use of social media.</p> | <p>Generally ...</p> <ul style="list-style-type: none"> If what you want to do qualifies as an "outside activity" under EPA's supplemental ethics rules, you may need prior written approval from an ethics official. You may not be compensated if the activity relates to official duty. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> Refrain from engaging in personal activities on EPA time. Do not use your EPA badge, email address or other EPA identifiers when acting in your personal capacity. Personal use of the EPA equipment is permitted only in accordance with EPA's limited personal use policy, which allows for <i>de minimis</i> use, but never for prohibited activities such as charitable fundraising, lobbying, political activity, compensated outside activity or illegal activities. There is no expectation of privacy in the federal workplace or when using EPA equipment or resources. Remember, your alternate work location is considered federal workspace when you are on Flexiplace and the ethics rules apply the same when you work remotely as when you are in the office. Do not use nonpublic information, which is any information gained through EPA employment that you know or should know has not been made available to the general public, is exempt from disclosure, or that has not been authorized for release. You may not take pictures inside federal buildings (including private buildings leased by federal occupants; e.g., EPA Region 10) without the permission of the occupying Agency. 41 C.F.R. § 102-74.420. |

WHICH LANE ARE YOU IN?

| Official Capacity (on behalf of EPA, as an employee) | Personal Capacity |
|--|---|
| | <p>Misuse of Position and Representing Back</p> <ul style="list-style-type: none"> • Avoid appearing to misuse your EPA position for your own personal gain or for the gain of others or to create the appearance that the federal government endorses your personal activities. <i>Avoid deliberate use of your EPA position or affiliation to bolster your personal position or to lend it greater or emphasized credence.</i> For example, you could carry a sign at an event that says “I love puppies.” You could even carry a sign that says, “Federal employee loves puppies.” But you should NOT carry a sign that says “EPA employee loves puppies.” • In your personal capacity, you cannot represent the interests of a third party back to the federal government, regardless of whether you are compensated. 18 U.S.C. §§ 203 & 205. For example, you could write a letter to your Senator, expressing your personal opinion about a proposed legislative action, but you could not write and sign a letter on behalf of a third party about the same proposed action. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> • You can reference your official title if it is one of at least three biographical details you provide and you make it clear that you are speaking in your personal capacity, not in your official capacity or on behalf of EPA. You might also need to include a disclaimer. • If you don’t mention your EPA position, you do not need to include a disclaimer. • If it is clear from the language or context of your speaking or writing that you are representing personal rather than Agency views, then you have addressed endorsement concerns, but you |

WHICH LANE ARE YOU IN?

| Official Capacity (on behalf of EPA, as an employee) | Personal Capacity |
|--|--|
| | <p>still must be careful not to use your EPA position for private gain. See Misuse of Position, above, and OGE letter 10 x 1.</p> <p>Social Media</p> <ul style="list-style-type: none"> • The ethics rules apply to social media just as they do to other forms of communication. • Because there is no expectation of privacy in the federal workplace or when using EPA equipment or resources, <i>we recommend against using EPA equipment, server, etc. to access personal social media accounts.</i> • Do not use or post nonpublic information in personal social media accounts. • Because you are generally prohibited from taking photos inside federal office space, you, therefore also should not post such photos to your personal social media accounts. • The Office of Government Ethics has a terrific legal advisory on ethics and personal use of social media. <p>Fundraising</p> <ul style="list-style-type: none"> • Don't use your EPA position to further outside fundraising efforts. There are some restrictions when engaged in fundraising, even on personal time. 5 C.F.R. § 2635.808. • You can't ever personally solicit funds from a subordinate or from a "prohibited source," which is any entity or person who is doing business with EPA, seeks to do business with EPA or is regulated by EPA. |